

- 5 -

REMARKS

The Examiner has revised the current rejection in light of new prior art. As set forth below, such new rejection is still deficient. However, despite such deficiencies and in the spirit of expediting the prosecution of the present application, applicant has incorporated the subject matter of multiple dependent claims into each of the independent claims. Since the subject matter of such dependent claims was already considered by the Examiner, it is asserted that the claim amendments involving such claimed subject matter would not require new search and/or consideration.

The Examiner has rejected the claims provisionally under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 6, and 8 of co-pending Application No. 09/921,521 in view of Shaw (USPN 6,381,741). Such rejection is deemed overcome in view of the terminal disclaimer submitted herewith.

The Examiner has rejected Claims 1-2, 6, 8, 10-11, 15 and 17 under 35 U.S.C. 103(a) as being unpatentable over Abdelnur (USPN 6,789,204) in view of Vogel (USPN 6,816,900), in view of Fanning et al (USPN 6,742,023) and further in view of Shaw (USPN 6,381,741). Applicant respectfully disagrees with this rejection.

In particular, the Examiner relies on Figure 4 along with the following excerpt from Fanning to make a prior art showing of applicant's claimed "forwarding the task to a local alias URL of the responding peer for performance of the task by the responding server if said verifying is successful" (see this or similar, but not necessarily identical claim language in each of the independent claims).

"Then, as shown in step 410, the data file is placed in the first distribution data file repository and is automatically made available to other distribution application in the community."
(see col. 12, lines 25-27)

- 6 -

The Examiner further admits that the foregoing claim language is absent in the remaining references and also argues that "Fanning discloses a method for securely distribut[ing] data files between users in a peer-to-peer network comprising forwarding the task to the responding peer for performance of the task by the responding server." Applicant respectfully disagrees with this assertion, as it appears that the Examiner has failed to consider the full weight of applicant's claims.

First, Fanning merely discloses making a data file available to a community, and not forwarding the task to the responding peer for performance of the task by the responding server, as purported by the Examiner. Further, none of the prior art references relied upon by the Examiner even suggest "forwarding the task to a local alias URL of the responding peer for performance of the task by the responding server if said verifying is successful" (emphasis added).

Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has incorporated the subject matter of dependent Claims 3 and 6-7 et al. into each of the independent claims. With respect to the subject matter of former Claim 6 et al. (now incorporated into each of the independent claims), the Examiner relies on Figure 2 and the excerpt below from Fanning to meet applicant's claimed technique "wherein a message is broadcasted indicating that the requesting peer has located the responding service-providing server."

"Using the displayed sorted search response, the user can select one of the data file descriptions, thus initiating a download of the data file using the file transfer client 114. The user interface 118 shows the status of each download. Any download can be canceled prior to completion. Interrupted downloads are displayed as well." (col. 12, lines 8-13)

The Examiner continues by arguing that "downloading from the server would necessitate the reception of a message that the requestor has located the responding server." Applicant respectfully disagrees with this assertion. Not only does Fanning make absolutely no mention of any sort of broadcast, it would not be technically necessary for such a broadcast to carry out the functionality in the above excerpt. Only

- 7 -

applicant teaches and claims broadcasting a message indicating that the requesting peer has located the responding service-providing server for informing other entities of the status of the request.

It appears that the Examiner has relied on an inherency argument regarding the above emphasized claim limitations. In view of the arguments made hereinabove, any such inherency argument has been adequately rebutted, and a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements is respectfully requested. (See MPEP 2112)

With respect to the subject matter of former Claim 3 et al. (now incorporated into each of the independent claims), the Examiner has rejected the subject matter of such claims under 35 U.S.C. 103(a) as being unpatentable over Abdelnur (USPN 6,789,204) in view of Vogel (USPN 6,816,900), in view of Fanning et al (USPN 6,742,023) and further in view of Christensen et al. (USPN 2002/0169842). Specifically, the Examiner relies on the excerpt below from Christensen to meet applicant's claimed technique "wherein said verifying verifies that the local alias URL is approved by the non-local backend server for the requested task."

"[0116] Bi-directional authentication means that when a client integration framework 200 initiates communication through an SSL connection 208 making a connection request 210 through an accept SSL connection request 212 with a server integration framework 202, the server integration framework 202 returns a server certificate 206, sent and signed by the certifying authority 214. The client 200 uses a factory installed public key certificate authenticate server/domain 216 to validate that the server certificate 206 was indeed signed by the certifying authority 214, then the client authenticate server/domain 216 verifies the server URL/IP Address and integration framework 202 Domain name. Once the client 200 has authenticated the server 202, the client certificate sending authority 218 then submits a client certificate 204 to the server integration framework 202. The server integration framework 202 then reverses the process in the authenticate client/domain 220 for the client 200. The HTTP(S) protocol then provides for the private key exchange and facilitates encryption for the remainder of the session."

- 8 -

Such excerpt, however, merely discloses that the “client authenticate[s] server/domain 216.” In sharp contrast, applicant teaches and claims verifying that the local alias URL is approved by the non-local backend server (not by the client, as in the above excerpt). Still yet, for reasons similar to those set forth hereinabove, Christensen simply fails to any verification of a local alias URL, as claimed by applicant.

Nevertheless, despite such deficiencies and in the spirit of expediting the prosecution of the present application, applicant has further distinguished the claimed local alias URL by further incorporating the subject matter of Claim 7 et al., as modified below, into each of the independent claims:

“wherein the local alias URL points to a local upload directory for a HTTP service server residing at a responding server node.”

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).


Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Thus, a notice of allowance or a specific prior art showing of all of applicant’s claim limitations, in combination with the remaining claim elements, is respectfully requested.

- 9 -

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P278/01.017.01).

Respectfully submitted,
Zilka-Kotab, PC.


Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100